

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

KELLY BOOTH,) Case No.:
)
Plaintiff,)
v.) **COMPLAINT AND DEMAND FOR**
) **JURY TRIAL**
CHASE BANK USA, N.A.,)
)
Defendant.)
)
)
)

COMPLAINT

NOW COMES Plaintiff, KELLY BOOTH (“Plaintiff”), through her attorneys, and hereby alleges the following against Defendant, CHASE BANK USA, N.A. (“Defendant”):

INTRODUCTION

1. Plaintiff brings this action on behalf of herself individually seeking damages and any other available legal or equitable remedies resulting from the illegal actions of Defendant, in negligently, knowingly, and/or willfully contacting Plaintiff on Plaintiff’s cellular telephone in violation of the Telephone Consumer Protection Act (hereinafter “TCPA”), 47 U.S.C. § 227 *et seq.*

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and 47 U.S.C. §227(b)(3). See, *Mims v. Arrow Financial Services, LLC*, 132 S.Ct. 740 (2012), holding that federal and state courts have concurrent jurisdiction over private suits arising under the TCPA.
3. Venue is proper in the United States District Court for the Northern District of Ohio pursuant to 28 U.S.C § 1391(b) because Plaintiff resides within this District and a

1 substantial part of the events or omissions giving rise to the herein claims occurred, or a
2 substantial part of property that is the subject of the action is situated within this District.

3 **PARTIES**

- 4 4. Plaintiff is a natural person residing in Erie County, in the city of Milan, Ohio.
- 5 5. Defendant is a corporation that conducts business in the state of Ohio, and has a main
6 office or principal place of business in Wilmington, Delaware.
- 7 6. At all times relevant to this Complaint, Defendant has acted through its agents employees,
8 officers, members, directors, heir, successors, assigns, principals, trustees, sureties,
9 subrogees, representatives and insurers.

10 **FACTUAL ALLEGATIONS**

- 11 7. Defendant is a “person” as defined by 47 U.S.C. § 153 (10).
- 12 8. Defendant placed collection calls to Plaintiff seeking and attempting to collect on alleged
13 debts incurred through purchases made on credit issued by Defendant.
- 14 9. Defendant placed collection calls to Plaintiff’s cellular telephone at phone number (419)
15 541-78XX.
- 16 10. Defendant placed collection calls to Plaintiff from phone numbers including, but not
17 limited to (210) 520-0146, (407) 732-2416, (800) 945-2000, (847) 426-9203 and (847)
18 426-9145.
- 19 11. Per its prior business practices, Defendant’s calls were placed with an automated telephone
20 dialing system (“auto-dialer”).
- 21 12. Defendant used an “automatic telephone dialing system”, as defined by 47 U.S.C. § 227(a)
22 (1) to place its telephone calls to Plaintiff seeking to collect a consumer debt allegedly
23 owed by Plaintiff, KELLY BOOTH.
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1 13. Defendant's calls constituted calls that were not for emergency purposes as defined by 47
2 U.S.C. § 227(b)(1)(A).

3 14. Defendant's calls were placed to a telephone number assigned to a cellular telephone
4 service for which Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C. §
5 227(b)(1).

6 15. Defendant never received Plaintiff's "prior express consent" to receive calls using an
7 automatic telephone dialing system or an artificial or prerecorded voice on her cellular
8 telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

9 16. On or about June 25, 2018, Plaintiff spoke with a representative for Defendant's company
10 "Raymond" at phone number (210) 520-0146 and requested that Defendant cease calling
11 Plaintiff's cellular phone.

12 17. During the conversation on June 25, 2018, Plaintiff gave Defendant her social security
13 number and mother's maiden name to assist Defendant in accessing her account before
14 asking Defendant to stop calling her cell phone.

15 18. Plaintiff revoked any consent, explicit, implied, or otherwise, to call her cellular telephone
16 and/or to receive Defendant's calls using an automatic telephone dialing system in her
17 conversation with Defendant's representative on June 25, 2018.

18 19. Despite Plaintiff's request to cease, Defendant placed another call to Plaintiff on June 30,
19 2018.

20 20. Defendant continued to place collection calls to Plaintiff after June 25, 2018.

21 21. Despite Plaintiff's request that Defendant cease placing automated collection calls,
22 Defendant placed at least one hundred and twenty-one (121) automated calls to Plaintiff's
23 cell phone.
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4 **FIRST CAUSE OF ACTION**
5 **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**
6 **47 U.S.C. § 227**

7 22. Plaintiff repeats and incorporates by reference into this cause of action the allegations set
8 forth above at Paragraphs 1-21.

9 23. The foregoing acts and omissions of Defendant constitute numerous and multiple
10 negligent violations of the TCPA, including but not limited to each and every one of the
11 above cited provisions of 47 U.S.C. § 227 et seq.

12 24. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq., Plaintiff is
13 entitled to an award of \$500.00 in statutory damages, for each and every violation,
14 pursuant to 47 U.S.C. §227(b)(3)(B).

15 25. Plaintiff is also entitled to seek injunctive relief prohibiting such conduct in the future.

16 **SECOND CAUSE OF ACTION**
17 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE CONSUMER**
18 **PROTECTION ACT**
19 **47 U.S.C. § 227 et. seq.**

20 26. Plaintiff repeats and incorporates by reference into this cause of action the allegations set
21 forth above at Paragraphs 1-21.

22 27. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing
23 and/or willful violations of the TCPA, including but not limited to each and every one of
24 the above cited provisions of 47 U.S.C. § 227 et seq.

1 28. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq.,
2 Plaintiff is entitled an award of \$1,500.00 in statutory damages, for each and every
3 violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

4 29. Plaintiff is also entitled to seek injunctive relief prohibiting such conduct in the future.

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6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff, KELLY BOOTH, respectfully requests judgment be entered
8 against Defendant, CHASE BANK USA, N.A. for the following:

9 **FIRST CAUSE OF ACTION**

10 30. For statutory damages of \$500.00 multiplied by the number of negligent violations of the
11 TCPA alleged herein (121); \$60,500.00;

12 31. Actual damages and compensatory damages according to proof at time of trial;

13 **SECOND CAUSE OF ACTION**

14 32. For statutory damages of \$1,500.00 multiplied by the number of knowing and/or willful
15 violations of TCPA alleged herein (121); \$181,500.00;

16 33. Actual damages and compensatory damages according to proof at time of trial;

17 **ON ALL CAUSES OF ACTION**

18 34. Actual damages and compensatory damages according to proof at time of trial;

19 35. Costs and reasonable attorneys' fees;

20 36. Any other relief that this Honorable Court deems appropriate.

21 **JURY TRIAL DEMAND**

22 37. Plaintiff demands a jury trial on all issues so triable.
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1 DATED: November 27, 2018

2 RESPECTFULLY SUBMITTED,

3 By: s/ Peter Cozmyk

4 Peter Cozmyk

Attorney for Plaintiff

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13 Attorney for Plaintiff

14 *Pro hac vice* application to follow